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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/417,863	10/13/1999	JEFFRY JOVAN PHILYAW	PHLY-24.767	8055

25883 7590 05/03/2004
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EXAMINER

BLAIR, DOUGLAS B

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 05/03/2004

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/417,863

Applicant(s)

PHILYAW ET AL.

Examiner

Douglas B Blair

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Claims 1-30 are currently pending in this application.
2. There are a number of errors in the amendment. On page 8 there is a blank after Claims. On the following page the Amendment appears to restart. On this same page there is a blank where the page number of the remarks. Also, Douglas Blair of Art Unit 2142 is the Examiner for the application and not Marc Thompson of Art Unit 2756.

Claim Rejections - 35 USC § 103

3. Claims 1-5, 10-11, 15-20, 25-26 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,666,293 to Metz et al. in view of U.S. Patent Number 6,002,852 to Birdwell et al..
4. Claims 1-5, 10-11, 15-20, 25-26 and 30 are rejected for the same reasons pointed out in the last office action (Paper No. 17).
5. Claims 6, 12-14, 21 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,666,293 to Metz et al. in view of U.S. Patent Number 6,002,852 to Birdwell et al. in further of view of U.S. Patent Number 5,894,516 to Brandenburg.
6. Claims 6, 12-14, 21 and 27-29 are rejected for the same reasons pointed out in the last office action (Paper No. 17).
7. Claims 7-8 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,666,293 to Metz et al. in view of U.S. Patent Number 6,002,852 to Birdwell et al. in further view of U.S. Patent Number 5,003,384 to Durden.

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8. Claims 7-8 and 22-23 are rejected for the same reasons pointed out in the last office action (Paper No. 17).

9. Claims 9 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,666,293 to Metz et al. in view of U.S. Patent Number 6,002,852 to Birdwell et al. and U.S. Patent Number 5,003,384 to Durden in further view of U.S. Patent Number 6,317,885 to Fries.

10. Claims 9 and 24 are rejected for the same reasons pointed out in the last office action (Paper No. 17).

Response to Arguments

11. Applicant's arguments filed 3/8/2004 have been fully considered but they are not persuasive. The applicant argues the following points: (a) There is no disclosure set forth that the download ID is removed such that re-transmission is prevented; rather, the confirmation is the manner in which re-transmissions are prevented; and (b) Birdwell does not teach or suggest that information that is received from the distribution system will have the ID for the information deleted from the "user storage device" after downloading; and (c) The download ID does not exist at the user's storage device in Birdwell prior to the download.

12. As to point (a), the claim language of claims 1 and 16 does not mention preventing retransmissions.

13. As to point (b), it is unclear from the applicant's arguments how deleting information from the user storage device will prevent retransmission from the broadcast system since the two entities are not directly connected and do not appear to directly share data as presently claimed.

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14. As to point (c), there are no limitations in claims 1 and 16 that mention the download ID being stored prior to the downloading.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas B Blair whose telephone number is 703-305-5267. The examiner can normally be reached on 8:30am-5pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on 703-305-9705. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3800.

Douglas Blair
April 19, 2004

DBB


JACK B. HARVEY
SUPERVISORY PATENT EXAMINER